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RECORDATION NO. 11586 Filed 1425 1828 L STREET, N. W. RECORDATION NO. 11586 Filed 1425
WASHINGTON, D. C. 20036

MAR 17 1980 -9 25 AM

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INTERSTATE COMMERCE COMMISSION (202) 457-1600

INTERSTATE COMMERCE COMMISSION

March 17, 1980

RECORDATION NO. 11586 Filed 1425

MAR 17 1980 -9 25 AM

+ ALSO ADMITTED IN MARYLAND
* ALSO ADMITTED IN VIRGINIA

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DIRECT DIAL NUMBER

457-1634

INTERSTATE COMMERCE COMMISSION
Ms. Agatha L. Mergenovich
Secretary
Interstate Commerce Commission
Room 2215
Washington, D.C. 20423

No. **0-072A022**

11586 A

Date **MAR 17 1980**

RECORDATION NO. 11586 Filed 1425

Fee \$ **100.00**

MAR 17 1980 -9 25 AM

ICC Washington, D.C. INTERSTATE COMMERCE COMMISSION

Dear Ms. Mergenovich:

As co-counsel for McDonnell Douglas Finance Corporation, I have been requested to ask that you file the following enclosed documents:

1. A "Bill of Sale", dated as of March 17, 1980, by and between FMC Corporation, as vendor, and McDonnell Douglas Finance Corporation, as vendee, for the purchase of railroad cars bearing road numbers WEIX 1001 through 1010, inclusive. All ten of the railroad cars encompassed by the Bill of Sale are new, 4700 cubic foot 100-ton covered hopper cars.
2. An "Equipment Lease Agreement", dated as of February 15, 1980, by and between McDonnell Douglas Finance Corporation, a Delaware corporation, as lessor, and Wilbur-Ellis Company, a California corporation, as lessee, for the leasing of railroad cars bearing road numbers WEIX 1001-1010, inclusive. The cars have been plainly marked in stencil on both sides with the words "Title To This Car Subject To Documents Recorded With The

David H. Cox
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March 17, 1980
Page Two

Interstate Commerce Commission." All ten of the railroad cars encompassed by the lease are new, 4700 cubic foot 100-ton steel covered hopper cars.

3. An "Individual Equipment Record", dated as of February 15, 1980, by and between McDonnell Douglas Finance Corporation ("Lessor") and Wilbur-Ellis Company ("Lessee"), which describes in greater detail the railroad equipment referred to in Paragraphs numbered 1 and 2 and leased through the Equipment Lease Agreement.
4. A "Lease Addendum No. 1", which is dated as of February 15, 1980, by and between McDonnell Douglas Finance Corporation, as lessor, and Wilbur-Ellis Company, as lessee, which sets forth additional terms of the Lease with respect to the items of equipment more fully described in the Individual Equipment Record.

I am delivering a total of four (4) manually executed copies of the Bill of Sale, Equipment Lease Agreement, Individual Equipment Record, and Lease Addendum No. 1. I would appreciate it if you would have three (3) copies of each stamped as recorded and returned to me.

Thank you for your assistance, I look forward to hearing from you at your earliest convenience.

Very truly yours,

JACKSON, CAMPBELL AND PARKINSON



David H. Cox

DHC/dm
Enclosures

cc: Brian Siegel, Esquire
Robert L. Day, Esquire

Interstate Commerce Commission
Washington, D.C. 20423

3/17/80

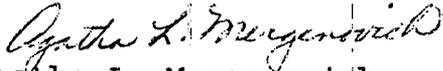
OFFICE OF THE SECRETARY

David H Cox
Jackson, Campbell & Parkinson
1828 L Street, N.W.
Washington, D.C. 20036

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 3/17/80 at 9:25am, and assigned re-
recording number(s). 11586, 11586-A, 11586-B, 11586-C

Sincerely yours,


Agatha L. Mergenovich
Secretary

Enclosure(s)

SE-30
(7/79)

MAR 17 1980 - 9 30 AM

LEASE ADDENDUM NO. 1

INTERSTATE COMMERCE COMMISSION

In connection with that certain Lease Agreement dated as of February 15, 1980, (the "Lease") between McDonnell Douglas Finance Corporation as Lessor (the "Lessor") and Wilbur Ellis Company as Lessee (the "Lessee") covering certain items of equipment ("Equipment") more fully described in the Individual Equipment Records ("IER") identified as Exhibit "A" thereto, it is agreed that, upon execution by the parties hereto, this Lease Addendum shall constitute a part of said Lease.

If for any taxable year of Lessor (or portion thereof) during which the Lease is in effect, Lessor (such term for the purpose of this Lease Addendum meaning Lessor and the corporations with which Lessor consolidates its United States federal income tax returns) shall (i) lose any portion of the full 10% investment tax credit allowed by Section 38 of the Internal Revenue Code of 1954 as amended to the date hereof (the "Code") for "new Section 38 property" with respect to the purchase price paid by Lessor for any item of Equipment (or, except as provided in clause (c) of this paragraph, would lose such portion but for Lessor's failure to have sufficient liability for tax within the meaning of Section 46 of the Code against which to credit such portion for the taxable year of Lessor in which such item of Equipment is placed in service), and/or (ii) lose the benefit of a depreciation deduction with respect to the purchase price paid by Lessor for any item of Equipment using the Class Life Depreciation Range System prescribed by Section 167(m) of the Code and Treasury Regulations 1.167(a)-11, and depreciating the Equipment over a period equal to 12 years to a net salvage value of 0% of the purchase price of such item of Equipment and not less than 12 months of depreciation will be allowable to the Lessor with respect to the equipment for the taxable year ending December 31, 1980, computed initially under the double-declining balance method of depreciation provided in Section 167(b)(2) of the Code and then switching to the sum-of-the-years' digits method of depreciation provided by Section 167(b)(3) of the Code (or, except as provided in clause (c) of this paragraph, would lose the benefit of such deduction if Lessor had sufficient gross income in the taxable year of the loss of such deduction against which to apply such deduction), as a result of any act, failure to act, omission or breach or inaccuracy of any representation or statement by Lessee of any nature whatsoever, the Lessee shall pay the Lessor (1) a sum which, after deduction of all taxes required to be paid by the Lessor in respect of the receipt of such sum under the laws of any Federal, state or local government or taxing authority in the United States, shall be equal to the amount of investment tax credit so lost (or which would have been lost had Lessor had sufficient liability for tax within the meaning of Section 46 of the Code), (2) the amount of any interest and the amount of any penalties or additions to tax which may be payable to

the United States Government by Lessor in connection with the loss of such investment tax credit, (3) with respect to each taxable year for which Lessor shall lose the benefit of a depreciation deduction indemnified against by Lessee hereunder, a sum which, after deduction of all taxes required to be paid by Lessor in respect of the receipt of such sum under the laws of any Federal, state, or local government or taxing authority in the United States shall be equal to the amount of any additional Federal income taxes required to be paid with respect to such year (or which would have been required to be paid by Lessor for such year had it had sufficient gross income within the meaning of Section 61 of the Code to actually derive the benefit of such depreciation deduction) by reason of such loss of depreciation deduction (net of any savings in Federal income taxes realized by Lessor by reason of Lessor not being required to include in its Federal gross income for the relevant period the full amount of rent paid by Lessee for such period) and (4) the amount of interest, penalties and additions to tax (including any additions to tax because of underpayment of estimated tax) which may be payable by Lessor to the United States Government in connection with the loss of such depreciation deduction, provided that the Lessee shall not be required to make any of the foregoing indemnity payments to the extent the loss of the investment tax credit and/or depreciation deduction is the direct result of: (a) any event whereby Lessee is required by the terms of the Lease to pay, and shall have paid in full the Stipulated Loss Value for such item of Equipment; (b) at any time while no Event of Default is continuing Lessor shall voluntarily transfer legal title in such Equipment to a third party; (c) the failure of Lessor to have sufficient liability for tax within the meaning of Section 46 of the Code against which to credit such investment tax credit for such item of Equipment or to have sufficient gross income within the meaning of Section 61 of the Code against which to apply such depreciation deduction (but only if and to the extent that such investment tax credit or depreciation deduction would not be lost if Lessor had sufficient liability for tax or sufficient gross income); and (d) the failure of Lessor to claim the investment tax credit and/or depreciation deduction in its income tax returns for the appropriate year or to follow proper procedure in claiming such investment tax credit and/or depreciation deduction in such tax returns for such year, if such failure to claim or follow proper procedure shall preclude Lessor from claiming the investment tax credit and/or depreciation.

Except as otherwise provided in the immediately following paragraph, the liability of the Lessee to make any indemnity payments hereunder shall become fixed at the time Lessor makes payment of the tax attributable to the portion of the investment tax credit or depreciation deduction lost, or if Lessor is not required to make payment of tax with respect to the portion of the investment tax credit or deduction lost, the date on which Lessor files its tax return for the taxable year in which such loss occurs, and shall be due and payable within 15 days after receipt by Lessee of written notice from Lessor as to the fixing of such liability.

Lessee shall pay interest at the maximum rate permitted by law on any indemnity payment not made when due.

In the event a claim shall be made by the Internal Revenue Service which, if successful, would result in the loss of the investment tax credit or depreciation deduction under circumstances which would require the Lessee to indemnify the Lessor for such loss, the Lessor hereby agrees to take such action in connection with contesting such claim as the Lessee shall reasonably request in writing, provided that: (i) within 30 days after written notice of such claim by Lessor, the Lessee shall request that such claim be contested; (ii) Lessor, at its option, may forego any and all administrative appeals, proceedings, and conferences with the Internal Revenue Service and may, at its sole option, either pay the tax claimed and sue for a refund in the appropriate forum selected by Lessor or contest such claim in the United States Tax Court, considering however, in good faith such request as the Lessee shall make concerning the appropriate forum in which to proceed; (iii) prior to taking such action, the Lessee shall have furnished the Lessor with an opinion of independent tax counsel, satisfactory to Lessor, to the effect that a meritorious defense exists to such claim; (iv) Lessee shall have indemnified Lessor in a manner reasonably satisfactory to it for any liability, loss, or expenses which Lessor may incur as the result of contesting such claim, and (v) in the event Lessor shall pay the tax claimed and then seek a refund and the final determination of such claim shall be adverse to Lessor, Lessee shall pay Lessor interest at the rate of 10% per annum on the amount of the tax paid attributable to the portion of the investment tax credit or depreciation deduction lost, computed from the date of payment of such tax to the date Lessee shall reimburse Lessor for the payment of such tax. In the case of any such claim by the Internal Revenue Service referred to above, Lessor agrees to promptly notify the Lessee in writing of such claim and agrees not to make payment of the tax claimed for at least 30 days after the giving of such notice and agrees to cooperate with Lessee in good faith in order to contest effectively any such claim. If any such claim shall be made by the Internal Revenue Service and Lessee shall have reasonably requested Lessor to contest such claim and shall have duly complied with all provisions of this paragraph, the Lessee's liability with respect to the investment tax credit or depreciation deduction lost as a consequence of such claim shall become fixed upon final determination of the liability of Lessor for the tax claimed and after giving effect to any refund obtained; but in all other cases the liability of Lessee shall become fixed and payable as provided in the immediate preceding paragraph.

The indemnification provided herein shall survive the expiration or other termination of the Lease.

Dated as of February 15, 1980

Lessor:



STATE OF CALIFORNIA,

COUNTY OF Los Angeles

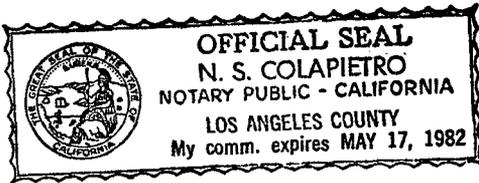
ss.

ON 6 March, 19 80,
before me, the undersigned, a Notary Public in and for said State, personally appeared
D. V. Black

known to me to be the

Vice President

of the McDonnell Douglas Finance Corporation
the Corporation that executed the within Instrument, known to me to be the person who
executed the within Instrument, on behalf of the Corporation, therein named, and acknowledged
to me that such Corporation executed the same.



WITNESS my hand and official seal.

N. S. Colapietro
Notary Public in and for said State.

ACKNOWLEDGMENT—Corporation—Wolcotts Form 222—Rev. 3-64

STATE OF CALIFORNIA

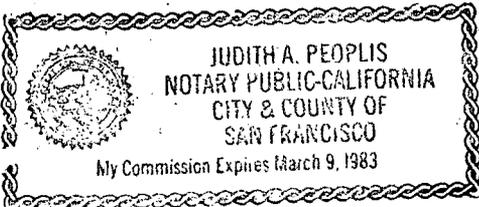
COUNTY OF San Francisco

ss.

On this 4th day of March in the year one thousand nine
hundred and 80, before me, Judith A. Peoples
a Notary Public, State of California, duly commissioned and sworn, personally
appeared C. P. Thacher
known to me to be the President of the corporation described
in and that executed the within instrument, and also known to me to be the
person who executed the within instrument on behalf of the corporation
therein named, and acknowledged to me that such corporation executed the
same Document.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official
seal in the City and County of San Francisco the day and
year in this certificate first above written.

Judith A. Peoples
Notary Public, State of California



Cowdery's Form No. 28—Acknowledgment Corporation (C. C. Secs. 1190—1190.1)

Printed 5/72